

SENATE JOURNAL

SEVENTIETH LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Tuesday, June 2, 1987)

In obedience to the Proclamation of the Honorable William P. Clements, Jr., Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 2nd day of June, 1987, at 11:00 a.m. and was called to order by the Honorable William P. Hobby, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

The President announced a quorum of the Senate present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Father, today's gavel has come sooner than some expected and we know there are important issues unfinished. May reasoning, fairness and desire for decision prevail as once again this morning the Members come together to move ahead in this Special Session. Bless each one, Father, as they strive to be representatives of their constituents, and then in the larger sense, pool their talents and energies for the ongoing of our State. In Your name we pray. Amen.

PROCLAMATION FROM THE GOVERNOR

The following Proclamation from the Governor was read and was filed with the Secretary of the Senate.

PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS

TO ALL WHOM THESE PRESENTS COME:

Under the provisions of Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby call a special session of the 70th Legislature, to be convened in the City of Austin, commencing at 11:00 a.m., Tuesday, the 2nd day of June, 1987, for the following purposes:

(1) to consider legislation relating to the provision and regulation of liability insurance;

- (2) to consider legislation relating to the venue of civil actions;
- (3) to consider legislation relating to prejudgment interest in civil cases; and
- (4) to consider legislation relating to revising the Civil Practice and Remedies Code to reform procedures and remedies in civil actions for personal injury, property damage, or death and civil actions based on tortious conduct, including revisions and additions to laws governing the determination of and limitations on liability and damages.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the state to be affixed hereto at Austin, this 2nd day of June, 1987.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

/s/Jack M. Rains
Jack M. Rains
Secretary of State

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 2 by Jones, Anderson, Sarpalius Committee of the Whole Senate
Relating to the provision and regulation of certain liability insurance; providing penalties.

S.B. 5 by Montford, Anderson, Committee of the Whole Senate
Brown, Sarpalius
Relating to revising the Civil Practice and Remedies Code to reform procedures and remedies in civil actions for personal injury, property damage, or death and civil actions based on tortious conduct, including revisions and additions to laws governing the determination of and limitations on liability and damages.

S.B. 6 by Montford, Anderson, Committee of the Whole Senate
Brown, Sarpalius
Relating to prejudgment interest in civil cases.

S.B. 7 by Montford, Anderson, Committee of the Whole Senate
Brown, Sarpalius
Relating to the venue of certain civil actions.

MOTION TO RECESS

On motion of Senator Brooks and by unanimous consent, the Senate agreed to recess at the conclusion of a Caucus of the Senate Subject to the Call of the Chair.

RECESS

On motion of Senator Brooks, the Senate at 11:05 a.m. took recess.

AFTER RECESS

The Senate met at 11:42 a.m. and was called to order by the President.

SENATE RESOLUTION 1
(Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
Lieutenant Governor
Senate of Texas
Austin, Texas

Sir:

At a caucus held in the office of the Senate attended by 28 Members of the Senate, the following recommendations were made, to wit:

The following officers were elected to serve for the 70th Legislature, First Called Session, at the will of the Senate:

Secretary of the Senate - Betty King
Sergeant-at-Arms - Carleton Turner
Doorkeeper - James Morris
Calendar Clerk - Kay Hughes
Enrolling Clerk - Patsy Spaw
Journal Clerk - Margrette Vollers

All officers and employees appointed by this caucus shall hold their office of employment for the duration of the 70th Legislature, First Called Session.

It is recommended that the Lieutenant Governor and the Secretary of the Senate each be permitted to name secretarial staff and assistants at salaries designated by the Lieutenant Governor and the Administration Committee respectively. The Parliamentarian, Camilla Bordie, is to be named by the Lieutenant Governor.

It is further recommended that the Administration Committee appoint a sufficient number of custodians, messengers, elevator operators, porters, and other employees as may be necessary. The President of the Senate is authorized to designate any member of the Senate or Senate staff to attend official meetings of national governmental organizations during the 70th Legislature, First Called Session, while in session. Actual and necessary expenses are hereby authorized as reimbursement for such trips.

It is further recommended that each Senator shall be permitted a maximum payroll of \$13,500 per month for secretarial and other office staff and for intrastate travel expenses for staff employees. In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of members and committees must use compensatory/overtime accrued in a given month by the end of the same month of the following year. Compensatory/overtime accrued prior to January 1, 1987, will not be carried forward after January 1, 1988. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination.

The Lieutenant Governor, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that the Lieutenant Governor, each Senator, and the Secretary of the Senate be permitted to subscribe for newspapers as necessary to be paid out of the contingent fund and be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that not to exceed 700 journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 journals shall be furnished the members of the House.

It is further recommended that the Legislative Reference Library be furnished 60 copies of the daily journal.

It is further recommended that all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the 70th Legislature as follows: the Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate.

It is further recommended that no employee of the Senate shall, during the time he or she is employed, furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not without permission receive any compensation from any person, firm, or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, members of the Senate, Secretary of the Senate, committee, or to the head of a department, shall report for duty at 8 a.m., and 1:00 p.m. each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the chairman of each standing committee shall have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, and to discharge the duties of said standing committee, subject to the approval of the Administration Committee.

It is further recommended that no employee of the Senate, except those whose official duties require them to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, after the performance of which he shall immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have privileges of the floor during the session of the Senate shall be permitted on the Senate floor for a period of 30 minutes prior to the time the Senate convenes. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such 30-minute period.

Respectfully submitted,

/s/Brooks

Chairman of the Caucus

Secretary of the Caucus

SENATE NOTIFIED

MOTION IN WRITING

BROOKS

MOTION IN WRITING

BROOKS

**OATH OF OFFICE ADMINISTERED TO PRESIDENT
PRO TEMPORE FOR FIRST CALLED SESSION
SEVENTIETH LEGISLATURE**

SENATE BILLS AND RESOLUTION ON FIRST READING

S.B. 9 by Farabee, Sarpalius Committee of the Whole Senate
Relating to the creation and operation of the Texas Nonprofit Organizations
Liability Pool.

S.C.R. 1 by Green Committee of the Whole Senate
Granting Mott Construction Corporation permission to sue the State of Texas and
Texas Southern University.

CO-AUTHORS OF SENATE BILL 5

On motion of Senator Montford and by unanimous consent, Senators Anderson, Brown and Sarpalius will be shown as Co-authors of S.B. 5.

CO-AUTHORS OF SENATE BILL 6

On motion of Senator Montford and by unanimous consent, Senators Anderson, Brown and Sarpalius will be shown as Co-authors of S.B. 6.

CO-AUTHORS OF SENATE BILL 7

On motion of Senator Montford and by unanimous consent, Senators Anderson, Brown and Sarpalius will be shown as Co-authors of S.B. 7.

CO-AUTHORS OF SENATE BILL 2

On motion of Senator Jones and by unanimous consent, Senators Anderson and Sarpalius will be shown as Co-authors of S.B. 2.

CO-AUTHOR OF SENATE BILL 8

On motion of Senator Farabee and by unanimous consent, Senator Sarpalius will be shown as Co-author of **S.B. 8**.

CO-AUTHOR OF SENATE BILL 9

On motion of Senator Farabee and by unanimous consent, Senator Sarpalius will be shown as Co-author of S.B. 9.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee of the Whole Senate might consider the following bills and resolution:

S.B. 2

S.B. 5

S.B. 6

S.B. 7

S.B. 8

S.B. 9

S.C.R. 1

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Brooks and by unanimous consent, the Senate at 11:49 a.m. agreed to resolve into the Committee of the Whole Senate.

The President appointed Senator Brooks Chairman of the Committee of the Whole Senate.

IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session at 7:57 p.m.

REPORT OF COMMITTEE OF THE WHOLE SENATE

Senator Brooks submitted the following report for the Committee of the Whole Senate:

S.C.R. 1
S.B. 9 (Amended)
S.B. 8
S.B. 7 (Amended)
S.B. 2 (Amended)
S.B. 5 (Amended)
S.B. 6

SENATE BILL 5 ON SECOND READING

On motion of Senator Montford and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 5, Relating to revising the Civil Practice and Remedies Code to reform procedures and remedies in civil actions for personal injury, property damage, or death and civil actions based on tortious conduct, including revisions and additions to laws governing the determination of and limitations on liability and damages.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 5** on page 22 after line 25 by striking section (3)(a) in its entirety through line 15 on page 23 and inserting the following:

(3)(a) "Drug" means:

(i) an article included in the definition of "drug" in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 321(g)(1)) which has been approved for marketing by the Food and Drug Administration pursuant to 21 U.S.C. Section 355 or 357, or Section 351 of the Public Health Service Act, 42 U.S.C. 262;

(ii) an article included in the definition of "drug" in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 321 (g)(1)) which is exempt from the requirements of 21 U.S.C. Section 355 or 357 pursuant to the provisions of U.S.C. Section 321 (p)(1) and is recognized as safe and effective under regulations established by the federal Food and Drug Administration; or

(iii) childhood vaccines, including a vaccine that is intended to confer immunity against diphtheria, tetanus, pertussis, polio, measles, mumps, or rubella, or any combination of these diseases.

The committee amendment was read and was adopted viva voce vote.

Senator Montford offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **S.B. 5** as follows:

1. On page 10, at line 23, strike the word "relief" and insert in lieu thereof "recovery of damages pursuant to the provisions of Section 33.001"

2. On page 11, at line 5, strike the word "relief" and insert in lieu thereof "recovery of damages pursuant to the provisions of Section 33.001"

3. On page 17, at line 14, between the word "defendant" and the word "solely" add the words "and these findings shall be"

The committee amendment was read and was adopted viva voce vote.

Senator Montford offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend **S.B. 5** as follows:

On page 9, line 9, between the word “death” and the word “arising” by inserting a comma (,).

The committee amendment was read and was adopted viva voce vote.

Senator Montford offered the following committee amendment to the bill:

Committee Amendment No. 4

Amend **S.B. 5** as follows:

On page 32, line 8, between the word “damages” and the word “that”, by inserting the phrase “to the extent that the state is liable for indemnification under section 104.002” and by striking lines 12 and 13 and by inserting a period (.) after the word “department” on line 11.

The committee amendment was read and was adopted viva voce vote.

Senator Edwards offered the following amendment to the bill:

Amend **S.B. 5** by adding an appropriately numbered section to read as follows and by renumbering the subsequent sections appropriately:

SECTION . This Act takes effect only if **S.B. 2**, 70th Legislature, 1st Called Session, 1987, is enacted and becomes law.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting “Nay” on the passage of the bill to engrossment.

SENATE BILL 5 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 5** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Lyon, Washington.

Absent: Parker.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Barrientos and Washington asked to be recorded as voting "Nay" on the final passage of the bill.

REASON FOR VOTE

Statement for record on **S.B. 5** - "No" vote.

1. Preamble - The preamble to **S.B. 5** makes questionable statements.
2. While this legislation makes some fair changes, I am not convinced that voting for this bill would lower insurance rates for Texans.

BARRIENTOS**SENATE BILL 6 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 6, Relating to prejudgement interest in civil cases.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 6 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 6** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 7 ON SECOND READING

On motion of Senator Montford and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 7, Relating to the venue of certain civil actions.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

Amend **S.B. 7**:

- (1) at p. 2, line 3, by inserting "to constitute an" between "considered" and "agency" and strike "representatives" and insert "representative" in lieu thereof.
- (2) at p. 2, line 19, by inserting "to constitute an" between "considered" and "agency" and strike "representatives" and insert "representative" in lieu thereof.

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 7 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 7 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 8 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 8, Relating to the creation, powers, and duties of the division of risk management.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 8 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 8 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 9 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 9, Relating to the creation and operation of the Texas Nonprofit Organizations Liability Pool.

The bill was read second time.

Senator Farabee offered the following committee amendment to the bill:

Committee Amendment No. 1

S.B. 9 is amended as follows:

In SECTION 1, Sec. 21, SUPERVISION; NOT ENGAGED IN INSURANCE is deleted and a new Section 21 is added to read as follows:

Section 21. JURISDICTION OF INSURANCE BOARD; APPLICATION OF INSURANCE CODE. (a) Except as provided by Subsection (c) of this section, the pool is not engaged in the business of insurance under this code and other laws of this state, and this code and other insurance laws of this state do not apply to the pool.

(b) In addition to this article, the pool is subject to:

(1) the requirement of this code and the State Board of Insurance relating to reporting liability claims data;

(2) the requirements of Subchapter B, Chapter 5, of this code relating to the making, filing, and approval of rates; and

(3) the continuing supervision of the State Board of Insurance relating to the pool's solvency.

(c) The State Board of Insurance may set certain minimum requirements to assure the capability of the pool to satisfy its obligations.

(d) Article 21.28-C of this code does not apply to the pool.

(e) The State Board of Insurance shall charge the pool reasonable fees for services performed by the Board pursuant to this act.

The committee amendment was read and was adopted viva voce vote.

Senator Farabee offered the following committee amendment to the bill:

Committee Amendment No. 2

S.B. 9 is amended as follows:

In SECTION 1, Section 17. CLAIMS-MADE COVERAGE is deleted and a new Section 17 is added to read as follows:

Section 17. CLAIMS-MADE COVERAGE. Liability insurance coverage provided by the pool may be provided on a claims-made basis on forms approved by the State Board of Insurance.

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 9 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 9 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 2 ON SECOND READING

On motion of Senator Jones and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 2, Relating to the provision and regulation of certain liability insurance; providing penalties.

The bill was read second time.

Senator Jones offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend S.B. 2 by adding a new section 8.06 to read as follows, and by renumbering the subsequent sections appropriately:

"SECTION 8.06. The Act takes effect only if Senate Bills 5, 6, and 7, 70th Legislature, 1st Called Session, 1987, are enacted and become law."

The committee amendment was read and was adopted viva voce vote.

Senator Jones offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend SECTION 3.01 of S.B. 2 by deleting the words on page 22, at line 18, subsection "(D)" which reads: "the liability portion of."

The committee amendment was read and was adopted viva voce vote.

Senator Jones offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend Sec. 2.07. of S.B. 2 by deleting existing language and substituting therefor the following:

"SECTION 2.07. Chapter 5, Insurance Code, is amended by adding Article 5.81A to read as follows:

Art. 5.81A. ANNUAL REVIEW OF RATES. The State Board of Insurance shall annually conduct a hearing to review whether the rates prescribed by it for multiperil rates meet the rate standards of the subchapter designated by the Board pursuant to Article 5.81, Insurance Code.

The committee amendment was read and was adopted viva voce vote.

Senator Jones offered the following amendment to the bill.

Floor Amendment No. 1

Amend S.B. 2 as follows:

On page 63, line 18, between "Articles 1.24A, 1.24B, and" and the designation "21.21", insert the words "is subject to"

On page 74, line 26, between "Articles 1.24A, 1.24B, and" and the designation "21.21", insert the words "is subject to"

On page 81, line 24, between the word "other" and the word "policy", insert the word "underlying".

The amendment was read and was adopted viva voce vote.

Senator Johnson offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 2, on page 17, by striking lines 13 through 26 and substituting the following:

(h) Except for the initial rates, rates for liability insurance that are approved on a standard and uniform basis shall be effective for a period of two years. The initial rates for the two-year period beginning on the effective date of this section, shall not exceed those rates in effect on June 1, 1987 for the same insurance coverage. During this initial two-year period, the Board may consider new rate filings only if the new rates are less than the previously approved rates for the same coverage. At the end of the initial two-year period, rates approved by the Board expire, and for an insurer to continue to sell the insurance coverage to which the expired rates applied, a new rate filing and approval under this article is required.

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 18, Nays 13.

Yeas: Armbrister, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Jones, Krier, Leedom, McFarland, Montford, Santiesteban, Sims, Truan.

Nays: Anderson, Barrientos, Green, Johnson, Lyon, Parker, Parmer, Sarpalius, Tejeda, Uribe, Washington, Whitmire, Zaffirini.

Senator Parmer offered the following amendment to the bill:

Floor Amendment No. 3

Amend S.B. 2, on page 17, by striking lines 13 through 26 and substituting the following:

(h) Except for the initial rates, rates for liability insurance that are approved on a standard and uniform basis shall be effective for a period of two years. For the two-year period beginning on the effective date of this section, the rates for that period may not exceed by more than 10 percent the rates in effect on June 1, 1987. During this initial two-year period, the Board may consider new rate filings only if the new rates are less than the rates in effect on June 1, 1987, plus 10 percent, for the same coverage. At the end of the initial two-year period, rates approved by the Board expire, and for an insurer to continue to sell insurance coverage to which the expired rates applied, a new rate filing and approval under this article is required. If the limitation on an increase creates an impediment to the availability of coverage, the Board may waive this limitation on any coverage.

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 17, Nays 14.

Yeas: Armbrister, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Jones, Krier, Leedom, McFarland, Montford, Parker, Santiesteban, Sims.

Nays: Anderson, Barrientos, Glasgow, Green, Johnson, Lyon, Parmer, Sarpalius, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 2 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 2 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

REASON FOR VOTES

My votes for the "Tort Reform" bills are cast with much reservation. It is my belief that the general public has been misled into making the assumption that the effect of these bills as law will be to lower insurance rates and make liability insurance more affordable and more available. My understanding of these bills has not convinced me of the same. But only time will reveal the true story. It is my prediction that the real effect of this package will only aid the insurance companies. These measures accompanied by real Insurance Code Reform, not merely a superficial facade, perhaps may accomplish the promised result. So desiring not to

be a part of denying the public the chance to benefit from the promised result, I cast my vote "aye".

JOHNSON

RECESS

On motion of Senator Brooks, the Senate at 8:29 p.m. took recess until 10:30 a.m. tomorrow.

FIRST DAY

(Continued)

(Wednesday, June 3, 1987)

AFTER RECESS

The Senate met at 10:30 a.m. and was called to order by Senator Brooks.

Senator Montford was recognized and introduced the following staff persons of the Legislative Council: David A. Kramer, Rita Arneil and Sarah Haynie.

Senator Montford stated, "Oftentimes the staff members' hard work goes unheralded, and I'd like to recognize three individuals from Legislative Council that did yeoman's service on the tort reform package, and I'd like to have these remarks recorded in the Journal because of the tremendous amount of hard work and long hours that they worked in getting the bill out. Members, I hope you'll express your appreciation to these hardworking public servants."

SENATE CAUCUS

The Presiding Officer, Senator Brooks in Chair, at 10:35 a.m. announced the Senate would caucus, and that the Senate would stand At Ease Subject to the Call of the Chair.

IN LEGISLATIVE SESSION

Senator Brooks called the Senate to order at 10:47 a.m. as In Legislative Session.

MESSAGE FROM THE HOUSE

House Chamber
June 3, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 2, Relating to the provision and regulation of certain liability insurance; providing penalties.

S.B. 5, Relating to revising the Civil Practice and Remedies Code.

S.B. 6, Relating to prejudgment interest in civil actions.

S.B. 7 Relating to the venue of certain civil actions.

S.B. 8, Relating to the creation, powers, and duties of the division of risk management.